

United States District Court, Northern District of Illinois

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| Name of Assigned Judge or Magistrate Judge | HARRY D. LEINENWEBER | Sitting Judge if Other than Assigned Judge | |
| CASE NUMBER | 12 C 2720 | DATE | 5/11/2012 |
| CASE TITLE | Wail Salem (#2011-0008821) vs. Supt. Kevin, et al. | | |

DOCKET ENTRY TEXT:

The clerk is directed to: (1) file the amended complaint; (2) terminate all defendants except Superintendent Kevin pursuant to the amended complaint, Fed. R. Civ. P. 15(a), and 28 U.S.C. § 1915A; (3) issue summons for service on defendant Kevin by the U.S. Marshal; and (4) send the plaintiff a Magistrate Judge Consent Form and Instructions for Submitting Documents along with a copy of this order. The plaintiff's motion for appointment of counsel [#4] is denied.

■ [For further details see text below.]

Docketing to mail notices.

STATEMENT

The plaintiff, an inmate in the custody of the Will County Adult Detention Facility, has brought this *pro se* civil rights action pursuant to 42 U.S.C. § 1983. The plaintiff claims that the defendants, Illinois State Police officers, embarked on a "vendetta" against him after the plaintiff ascertained an officer's telephone number and called him to discuss a seized automobile. The plaintiff alleges that the defendants framed him for a crime, conducted an unnecessarily destructive search of his home, and illegally seized evidence.

By Minute Order of April 23, 2012, the court granted the plaintiff's motion for leave to proceed *in forma pauperis* but directed him to submit an amended complaint curing certain pleading deficiencies. Under 28 U.S.C. § 1915A, the court is required to conduct a prompt initial review of the amended complaint.

Accepting the plaintiff's allegations as true, the court finds that the plaintiff has articulated a colorable federal cause of action against defendant Kevin. If Officer Kevin used his police power to abuse the plaintiff, then the latter may be entitled to relief under 42 U.S.C. § 1983. While a more fully developed record may belie the plaintiff's allegations, the defendant must respond to the amended complaint.

However, the amended complaint is dismissed as to defendants George and Thomas, who are mentioned nowhere in the body of the amended complaint. Rule 8(a)(2) of the Federal Rules of Civil Procedure requires "a short and plain statement of the claim showing that the pleader is entitled to relief," in order to " 'give the

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STATEMENT (continued)

defendant fair notice of what the . . . claim is and the grounds upon which it rests.’ ” *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 555 (2007) (quoting *Conley v. Gibson*, 355 U.S. 41, 47 (1957)); *Windy City Metal Fabricators & Supply, Inc. v. CIT Tech. Fin. Servs., Inc.*, 536 F.3d 663, 667 (7th Cir. 2008). The plaintiff has failed to state a claim against either George or Thomas, in the absence of any facts whatsoever concerning their involvement.

The clerk shall issue summonses forthwith for service of the amended complaint on defendant Kevin only. The United States Marshals Service is appointed to serve the defendant. Any service forms necessary for the plaintiff to complete will be sent by the Marshal as appropriate to serve the defendant with process. The U.S. Marshal is directed to make all reasonable efforts to serve the defendant. If Officer Kevin can no longer be found at the work address provided by the plaintiff, the Illinois State Police shall furnish the Marshal with the defendant’s last-known address. The information shall be used only for purposes of effectuating service [or for proof of service, should a dispute arise] and any documentation of the address shall be retained only by the Marshal. Address information shall not be maintained in the court file, nor disclosed by the Marshal. The Marshal is authorized to mail a request for waiver of service to the defendant in the manner prescribed by Fed. R. Civ. P. 4(d)(2) before attempting personal service.

The plaintiff is instructed to file all future papers concerning this action with the Clerk of Court in care of the Prisoner Correspondent. **The plaintiff is once again reminded that he must provide the court with the original plus a complete judge’s copy, including any exhibits, of every document filed.** In addition, the plaintiff must send an exact copy of any court filing to the defendant [or to defense counsel, once an attorney has entered an appearance on behalf of the defendant]. Every document filed with the court must include a certificate of service stating to whom exact copies were mailed and the date of mailing. Any paper that is sent directly to the judge or that otherwise fails to comply with these instructions may be disregarded by the court or returned to the plaintiff.

Finally, the plaintiff’s motion for appointment of counsel is denied. There is no constitutional or statutory right to counsel in federal civil cases. *Romanelli v. Suliene*, 615 F.3d 847, 851 (2010); *see also Johnson v. Doughty*, 433 F.3d 1001, 1006 (7th Cir. 2006). Nevertheless, the district court has discretion under 28 U.S.C. § 1915(e)(1) to request counsel for an indigent litigant. *Pruitt v. Mote*, 503 F.3d 647, 654 (7th Cir. 2007), *citing Johnson*, 433 F.3d at 1006. When a *pro se* litigant submits a request for appointment of counsel, the court must first consider whether the indigent plaintiff has made reasonable attempts to secure counsel on his own, or conversely, if he has been precluded from doing so. *Pruitt*, 503 F.3d at 654. Next, the court must evaluate the complexity of the case and whether the plaintiff appears competent to litigate it on his own. *Id.* at 654-55. Another consideration is whether the assistance of counsel would provide a substantial benefit to the court or the parties, potentially affecting the outcome of the case. *Id.* at 654; *Gil v. Reed*, 381 F.3d 649, 656 (7th Cir. 2004); *see also* Local Rule 83.36(c) (N.D. Ill.) (listing the factors to be taken into account in determining whether to appoint counsel).

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STATEMENT (continued)

After considering the above factors, the court concludes that appointment of counsel is not warranted in this case. First, the plaintiff has failed to show either that he has made reasonable efforts to retain private counsel or that he has been effectively precluded from making such efforts. In any event, although the complaint sets forth cognizable claims, the plaintiff has alleged no physical or mental disability that might preclude him from adequately investigating the facts giving rise to his complaint. Neither the legal issues raised in the complaint nor the evidence that might support the plaintiff's claims are so complex or intricate that a trained attorney is necessary. The plaintiff has had the wherewithal to bring five suits in this district alone since January, and his submissions to date have been coherent and articulate; he appears more than capable of presenting his case. It should additionally be noted that the court grants *pro se* litigants wide latitude in the handling of their lawsuits. Therefore, the plaintiff's motion for appointment of counsel is denied at this time. Should the case proceed to a point that assistance of counsel is appropriate, the court may revisit this request.